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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/350,474

07/09/99

WINSTROM

W

POC-99-1-1

EXAMINER

HM12/0721

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OMAHA NE 68154-4409

LEVY, N

ART UNIT

PAPER NUMBER

1616

9

DATE MAILED:

07/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09 350474

Applicant(s)

WINSTON PATENT

Examiner

A. B. L. M.

Group Art Unit

1616 5

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

P r i d f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 4/17/88
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disp sition of Claims

- ☒ Claim(s) 1-10 is/are pending in the application.
- Of the above claim(s) 76, 86, 88-98 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-10, 57-75, 77-85 & 87 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Pri rity under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Pap r No(s). _____ ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Acti n Summary

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Receipt of Acknowledged of Election

Amendment of 4-17-00

Applicant's election with traverse of Group I in Paper No. 4 is acknowledged. The traversal is on the ground(s) that Examiners conclusion are unsupported that there would undue burden and that the invention are independent or patentably distinct. This is not found persuasive because in fact the various groups need be reached in different classes and subclasses, establishing a basis of independence of inventing and of excessive burden..

The requirement is still deemed proper and is therefore made FINAL.

Claims 76,86, and 88-98 stand withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention, the requirement having been traversed in Paper No. 4.

The request was for identification of the feed species; the edible feed material. ENDFIELD

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10,57-75,77-85,87 : a "Low" (Claims 87) "substantially "and" High "one indefinite, as is "edible feed material", which could which could conceivable include, nutrients, paper, grain, wood chips, bone, straw, etc. It should be identified in reclaim at Claim 4,10 or should be "and" please in rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

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failing to particularly point out and distinctly claim the subject matter which applicant regards as the invent "and" in claim, 71, ⁶¹

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claim 1-4,8,9,57-60,64,87 are rejected under 35 U.S.C. 102(b) as being anticipated by KEM petal 4908034 solid, substantially dustless animal feed granules (Col 3) with antibiotic (copy, lines 5-12) are provided - fed material include under, fine K,S,Ca, molasses protein, yeast cells cereal grain etc. (Col 2) in an uncomforted state. Oct source are added, more inherently achieving a low level oil content, as instantly claimed (Claim 3)-see col. 4 canola, peanuts - used palm kernel meal (lines 7,8,31-36). The processes are as instantly claimed mixing or blending, with oil source added (Col 3, to 52-62, Col 4, are 1-12) in claim of protein and oil source addition (linseed read, meat meal, tocopherol). The instant invention (Clever 87) required low, unquantified, antibiotic activity of fermentation solid-Shown by Kemp; as molasses derived, with add fed antibiotic (Col. 4) line 7-12.

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Claims 1-9, 57-64, 66-74, ~~77~~-85 and 87 are rejected under 35 U.S.C. 102(b) as being anticipated by Kloth 4447421.

Substantially dustless granular feed premixes are prepared (Col 2 lines 18-33) by blending (Col 2, lines 60 CF Col 3, lines 50, monenon, tycoon or tetracycline equivalently as fermentation solids or pure drugs with edibles mineral (Col 3, line 6, 01) Examples 2,5) Oil is added (Table II); an is limestone (Table IV). the antibiotic fermentation solids meets the instant claim (1,5,7) to fermented solid are show as is added antibiotic (Col 3, lines 33-43).ENDFIELD

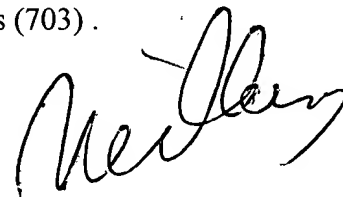
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (703) 308-2412. He examiner can normally be reached on Tuesday thru Friday from am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jose Dees 703-308-4628, can be reached on (703) 703-308-1235. The fax phone number for the organization where this application or proceeding is assigned is (703) .

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) .

Levy/sg

7-12-00 (polytype)



NEIL S. LEVY
PRIMARY EXAMINER